United Nations CRC/C/OPSC/KHM/CO/1

Convention on the Rights of the Child

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Committee on the Rights of the Child

Concluding observations on the report submitted by Cambodia under article 12, paragraph 1, of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography*

1. The Committee considered the initial report of Cambodia (CRC/C/OPSC/KHM/1) at its 1931st meeting (see CRC/C/SR.1931), held on 12 January 2015, and adopted at its 1983rd meeting (see CRC/C/SR.1983), held on 30 January 2015, the following concluding observations.

I. Introduction

2. The Committee welcomes the submission of the State party's initial report and its written replies to the list of issues (CRC/C/OPSC/KHM/Q/1/Add.1). The Committee appreciates the constructive dialogue held with the high-level delegation of the State party.

3. The Committee reminds the State party that the present concluding observations should be read in conjunction with the concluding observations on the State party's combined second and third periodic report under the Convention on the Rights of the Child (CRC/C/KHM/CO/2-3), adopted on 3 August 2011, and on the initial report under the Optional Protocol on the involvement of children in armed conflict (CRC/C/OPAC/KHM/CO/1), adopted on 30 January 2015.

II. General observations

Positive aspects

4. The Committee notes with appreciation the State party's accession or ratification of:

(a) The Protocol to Prevent, Supress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, in July 2007;

(b) The Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption, in April 2007;

* Adopted by the Committee at its sixty-eight session (12–30 January 2015).

(c) International Labour Organization Convention No. 182 (1999) concerning the prohibition and immediate elimination of the worst forms of child labour, in March 2006;

(d) The Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime, in December 2005.

5. The Committee also welcomes the various measures taken by the State party in areas relevant to the implementation of the Optional Protocol, as well as regional initiatives, including:

(a) The National Plan for Child Development (2014-2018);

(b) The National Plan of Action on the Suppression of Human Trafficking, Smuggling, Labour and Sexual Exploitation (2011-2013) adopted in 2011 and the establishment of the National Committee to lead the Suppression of Human Trafficking, Smuggling, Labour and Sexual Exploitation of Women and Children, created in 2009;

(c) The Law on Intercountry Adoption, adopted in 2009;

(d) The Law on the Suppression of Human Trafficking and Sexual Exploitation, adopted in 2008;

(e) The 2008-2012 National Plan of Action on the Elimination of the Worst Forms of Child Labour;

(f) The Coordinated Mekong Ministerial Initiative against Trafficking and its Second Subregional three-year Action Plan, adopted in 2007.

III. Data

Data collection

6. The Committee is concerned that the State party's efforts in collecting data remain fragmented as the existing databases focus mainly on trafficking, are insufficiently linked to each other and are not accessible at the provincial and municipal levels. It is particularly concerned at the lack of research, information and data disaggregated, inter alia, by sex, age, nationality and ethnic origin, geographical location and socioeconomic status, on child prostitution and on child pornography on the Internet, which greatly limits the State party's capacity to monitor, assess and prevent these offences under the Optional Protocol.

7. **The Committee recommends that the State party intensify its efforts to develop and implement a comprehensive, coordinated and effective system of data collection, analysis, monitoring and impact assessment on all areas covered by the Optional Protocol, including on child prostitution, child pornography and child sex tourism. The data should be disaggregated, inter alia, by sex, age, nationality and ethnic origin, region and socioeconomic status, with particular attention to children who are at risk of becoming victims of crimes under the Optional Protocol.**

IV. General measures of implementation

National plan of action

8. The Committee welcomes the adoption on 7 December 2011 of the National Plan of Action against Trafficking and Sexual Exploitation of Children (2011-2013) and the forthcoming adoption of a new action plan for the period 2014-2018. It regrets, however, that measures undertaken by the State party in areas covered by the Optional Protocol have

not been sufficiently evaluated to inform further strategies under the new action plan and delays in its adoption and implementation.

9. **With reference to its concluding observations under the Convention (CRC/C/KHM/CO/2-3, para. 13), the Committee recommends that the State party:**

(a) Expedite the adoption of the new action plan against trafficking and sexual exploitation of children, which should include all issues covered under the Optional Protocol, with measures aimed at prevention, protection and the physical and psychological recovery and social reintegration of child victims, as well as the investigation and prosecution of the offences covered by the Optional Protocol;

(b) Consider incorporating the new action plan into a comprehensive policy and strategy with clear indicators and timetables in order to assess the implementation of the plan, as well as adequate human, technical and financial resources;

(c) Conduct periodic monitoring and evaluation of all measures taken in order to inform further strategy and policy development.

Coordination

10. The Committee notes as positive the establishment of the Cambodian National Council for Children as the mechanism for the overall coordination, monitoring and implementation of policies and programmes related to the Optional Protocol. It is concerned, however, that overlapping coordinating functions of the Cambodian National Council for Children and the National Committee to lead the Suppression of Human Trafficking, Smuggling, Labour and Sexual Exploitation of Women and Children in areas covered by the Optional Protocol may undermine the capacity of the State party to effectively implement the Optional Protocol.

11. **With reference to paragraph 11 of its concluding observations under the Convention (CRC/C/KHM/CO/2-3), the Committee recommends that the State party further strengthen the authority and coordinating role of the Cambodian National Council for Children by consolidating the coordination mechanisms between the existing agencies involved in the development and implementation of child rights policies in areas covered under the Optional Protocol.**

Dissemination and awareness-raising

12. While noting the State party's initiatives to raise awareness about human trafficking, the Committee is concerned that the Optional Protocol has not been sufficiently promoted and disseminated, in particular among implementing agencies, parents, teachers, law enforcement personnel, children and the public at large. The Committee also notes with concern that issues related to the Optional Protocol are not yet included in school curricula for children.

13. **The Committee urges the State party to take all necessary measures to make the provisions of the Optional Protocol widely known. To this end, the State party should in particular:**

(a) Develop and conduct, in consultation with communities, civil society organizations and children, long-term educational and awareness-raising programmes on the preventive measures and harmful effects of all the offences covered by the Optional Protocol, including on assistance and reporting mechanisms established to prevent children from falling victim to the offences in the Optional Protocol;

(b) Disseminate systematically the Optional Protocol among government officials at the national, provincial and district levels, as well as to all relevant professional groups, especially police officers, judges and prosecutors;

(c) Consider incorporating issues related to the Optional Protocol into the curricula of primary and secondary schools.

Training

14. While noting that training activities have been conducted on human trafficking in collaboration with intergovernmental and non-governmental organizations, the Committee is concerned that not all offences under the Optional Protocol are adequately covered by training activities, that they have not reached all professionals working with and for children, especially in remote and rural areas, and that relevant professionals, in particular the police and those working with the administration of justice, have not received sufficient training on the provisions of the Optional Protocol. The Committee is further concerned about the limited number of trained social workers at the commune and local levels to carry out preventive and protective activities required under the Optional Protocol.

15. **The Committee recommends that the State party:**

(a) Allocate adequate resources to ensure systematic and targeted training specifically on the provisions of the Optional Protocol and their implementation to all relevant professional groups working with and for children, as well as judges, prosecutors, police officers and civil servants, including at the provincial and municipal levels;

(b) Ensure that such training includes multidisciplinary training programmes developed in consultation with communities, civil society organizations and child victims;

(c) Conduct regular assessments of its training activities to ensure that the knowledge and skills acquired are translated into practice in order to effectively identify victims and protect children from the offences covered under the Optional Protocol;

(d) Intensify its efforts to recruit and train social workers at the commune level and to allocate sufficient funds for them to fulfil their role.

V. Prevention of the sale of children, child prostitution and child pornography (art. 9, paras. 1 and 2)

Measures adopted to prevent offences prohibited under the Optional Protocol

16. While noting that some measures have been taken in order to prevent offences under the Optional Protocol, including the establishment of village and commune safety policies, as well as the development of a subdecree and code of conduct on child protection and the establishment of a national committee on child protection, the Committee deeply regrets that preventive measures regarding offences prohibited by the Optional Protocol remain inadequate and fragmentary. It is concerned about:

(a) The underlying root causes and contributing factors that lead to the vulnerability of children to the offences under the Optional Protocol, such as poverty and unemployment, which are not sufficiently addressed;

(b) The inadequate mechanisms in place to detect, identify and monitor children at particular risk of becoming victims of the offences under the Optional Protocol,

especially children in street situations, migrant and unaccompanied children, as well as children who are left behind when their parents migrate to work;

(c) The low rates of birth registration in the State party, a factor that facilitates the commission of offences under the Optional Protocol;

(d) The extent and prevalence of sexual exploitation of children, in particular in entertainment venues;

(e) The limited measures taken by the State party to prevent the exploitation of children in forced labour, especially in domestic work and hazardous labour, such as in the informal manufacturing, mining, agricultural and services sectors;

(f) The lack of information provided by the State party on measures taken to protect children from unlawful adoptions, as well as delays in enacting subdecrees under the Law on Intercountry Adoption;

(g) Insufficient measures to tackle the engagement of children in pornography, which is widely available online through information and communication technologies, as well as the involvement of large numbers of children in prostitution.

17. **With reference to its previous concluding observations on child labour (CRC/C/KHM/CO/2-3, para. 68) and sexual exploitation and abuse (para. 72), the Committee recommends that the State party:**

(a) Adopt a comprehensive and targeted approach that addresses the relevant root causes and risk factors of offences under the Optional Protocol, including poverty, unemployment and seasonal employment, and that targets children in the most vulnerable situations who are at risk of becoming victims of the offences under the Optional Protocol;

(b) Pursue its efforts to ensure birth registration of all children, as recommended in other concluding observations of the Committee (CRC/C/KHM/CO/2-3, para. 37 and CRC/C/OPAC/KHM/CO/1, para. 14);

(c) Strengthen the enforcement of existing laws as well as administrative measures, social policies and programmes aimed at prevention and increase the number of labour inspections, including with a view to protecting children working in the informal sector, in hazardous work places and in entertainment venues;

(d) Ensure that all cases of adoption are in full conformity with the Optional Protocol and with the principles and provisions of the Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption, by adopting pending implementing decrees to the Law on Intercountry Adoption, by developing and implementing a programme to prevent illegal adoptions and by regulating the licensing and monitoring of agencies, as well as the fees they charge for their various services;

(e) Implement targeted campaigns and specialized educational programmes to combat child pornography and child prostitution, to address the risks associated with the Internet by providing education on Internet safety to children, and to tackle the issue of demand for children for purposes of sexual exploitation.

Child sex tourism

18. The Committee welcomes the State party's initiatives to prevent child sex tourism, such as the adoption of the Law on Tourism, the establishment of the Child Safe Tourism Committee, as well as a campaign on child safe tourism and training activities to various tourism stakeholders. Nonetheless, the Committee expresses its concern about:

(a) Reports of continued sexual exploitation of children in the context of travel and tourism in various areas of the State party, especially in rural areas;

(b) The so-called orphanage tourism, which seems to be a growing phenomenon where children in institutions and orphanages are being exposed to sexual exploitation by foreigners, such as tourists and volunteer workers.

19. **The Committee urges the State party to pursue its efforts to prevent child sex tourism and orphanage tourism and to protect children from becoming victims by strengthening its regulatory framework and awareness-raising measures, including in rural areas, and to take all necessary measures to ensure that all cases of child sex tourism and orphanage tourism are investigated and that alleged perpetrators are prosecuted and duly sanctioned. The Committee also recommends that the State party:**

(a) Conduct advocacy with the tourism industry and the media on the harmful effects of child sex tourism, widely disseminate the World Tourism Organization Global Code of Ethics for Tourism among travel agents and tourism agencies, and encourage these enterprises to become signatories to the Code of Conduct for the Protection of Children from Sexual Exploitation in Travel and Tourism;

(b) Intensify the conduct of monitoring visits and inspections in all alternative care institutions to uphold the minimum standards for alternative care, as well as in entertainment venues;

(c) Strengthen its legislative and regulatory framework by swiftly adopting pending subdecrees on the management of alternative care institutions and ensure the continued enforcement of the compulsory registration of all alternative care institutions;

(d) Ensure systematic background checks of all staff and/or volunteers who will be working directly with children;

(e) Establish confidential and safe reporting procedures for children in residential care.

VI. Prohibition of the sale of children, child pornography and child prostitution and related matters (arts. 3; 4, paras. 2 and 3; 5; 6 and 7)

Existing criminal or penal laws and regulations

20. The Committee notes with appreciation the efforts made by the State party to ensure that its legislation complies with the provisions of the Optional Protocol and welcomes the incorporation of a comprehensive definition of child prostitution into the Law on the Suppression of Human Trafficking and Sexual Exploitation. However, the Committee expresses concern about remaining gaps in the Law, which does not fully reflect the definitions of the offences as prescribed by articles 2 and 3 of the Optional Protocol. In particular, the Committee notes that:

(a) Elements of the offence of sale of children have not been comprehensively defined in the legislation and an element of force or other forms of coercion is required, such as the use of deception, abuse of power, confinement, or threat;

(b) The definition of the offence of child pornography is too restrictive, as it fails to adequately encompass all the elements provided for in article 2 (c) of the Optional

Protocol and the possession of child pornography without intent to distribute is not criminalized.

21. **The Committee urges the State party to revise the Law on the Suppression of Human Trafficking and Sexual Exploitation, and to bring it into full compliance with articles 2 and 3 of the Optional Protocol, by properly defining and criminalizing all forms of sale of children and child pornography. In particular, the State party should:**

(a) Amend the Law by incorporating a comprehensive definition of sale of children, which includes the acts of offering, delivering or accepting a child for the purpose of sexual exploitation or illegal adoption, for the engagement of a child in forced labour and for the transfer of organs of the child for profit, in accordance with article 3 (a) of the Optional Protocol, and repeal, in article 12 of the Law, the requirement of an element of force or other forms of coercion in all forms of sale of children;

(b) Expand the definition of child pornography contained in articles 2 (c) and 3 (c) of the Optional Protocol to explicitly include suggestive representations of children that do not depict children engaged in explicit sexual activity and to encompass acts of producing, distributing, disseminating, importing, exporting, offering, selling, as well as possessing or knowingly accessing or viewing child pornography.

Impunity

22. The Committee is deeply concerned that impunity remains pervasive for offences under the Optional Protocol owing to limited enforcement of the State party's legislative framework, as shown by the low prosecution and conviction rates. In particular, it is concerned that the widespread practice of out-of-court settlements, in the form of conciliation between victims and perpetrators, facilitated by law enforcement officials and the high levels of corruption among officials, including the police, seriously impede the State party's efforts to investigate and prosecute perpetrators.

23. **The Committee urges the State party to intensify its efforts to combat the impunity enjoyed by perpetrators and to ensure that crimes under the Optional Protocol are investigated and that alleged perpetrators are prosecuted and duly sanctioned. To this end, the State party should:**

(a) Issue clear instructions to all prosecutors to actively prosecute cases and ensure that criminal legal proceedings are systematically brought against the perpetrators of offences under the Optional Protocol;

(b) Address the issue of corruption as a matter of priority through rigorous investigations of complaints of complicity by government officials and ensure that sanctions are imposed on law enforcement officials and police officers who display inaction and/or engage in corruption in addressing the offences covered under the Optional Protocol.

Extraterritorial jurisdiction and extradition

24. The Committee notes as positive that the State party's legislation enables the establishment and exercise of its extraterritorial jurisdiction over crimes prescribed in the Law on Suppression of Human Trafficking and Sexual Exploitation that are committed abroad by or against its citizens. While noting that extradition is subject to the existence of a treaty between the State party and the requesting State, the Committee is concerned that, in the absence of such agreement, the double criminality requirement is applicable in all cases of extradition.

25. **The Committee recommends that the State party take the necessary measures to repeal the double criminality requirement for extradition for offences covered by the Optional Protocol when they are committed outside its territory and, in the absence of a bilateral or multilateral treaty of extradition, to consider using the Optional Protocol as a legal basis for extradition, in line with its article 5.**

VII. Protection of the rights of child victims (arts. 8 and 9, paras. 3 and 4)

Measures adopted to protect the rights and interests of child victims of offences prohibited under the Optional Protocol

26. The Committee notes that the State party has taken steps towards protecting the rights and interests of child victims, such as the adoption of a National Policy and Minimum Standards on Alternative Care for Children, of Principles on the Protection of the Rights of Child Victims of Trafficking and of a draft guideline for identification and referral of victims of human trafficking and sexual exploitation. However, the Committee remains concerned that the low level of understanding and awareness of the offences under the Optional Protocol prevents child victims of sale, prostitution or pornography to assert their rights. The Committee is particularly concerned about:

(a) The underreporting of offences under the Optional Protocol due to widespread lack of confidence in law enforcement and judicial authorities;

(b) Limited access to complaints and reporting mechanisms;

(c) The weak capacity of law enforcement officials to respond to violations of children's rights as protected under the Optional Protocol;

(d) Insufficient measures taken to identify child victims of all offences prohibited under the Optional Protocol;

(e) Ineffective coordination mechanisms between police, court officials and government agencies to adequately protect child victims;

(f) The lack of information on the availability of compensation for damages from those legally responsible in accordance with article 9, paragraph 4, of the Optional Protocol.

27. **In the light of article 9, paragraph 3, of the Optional Protocol, the Committee recommends that the State party place high priority in the public agenda on combating all forms of sexual exploitation of children with a view to strengthening the deterrent effect of its existing framework. In so doing, the State party should:**

(a) Ensure that complaints mechanisms at the community level are easily accessible and available to children whose rights under the Optional Protocol may have been violated;

(b) Strengthen the capacity of all law enforcement authorities, including local authorities and the judiciary, through specialized training;

(c) Establish mechanisms and procedures for the early detection and identification of child victims of the offences under the Optional Protocol, including through increased information-sharing and cooperation mechanisms between law enforcement agencies, relevant ministries and social services;

(d) Take measures to guarantee that all child victims have access to adequate procedures to seek, without discrimination, compensation for damages from those legally responsible, in accordance with article 9, paragraph 4, of the Optional

Protocol, and establish a fund for compensation for child victims, for those cases where they cannot obtain compensation from the perpetrator.

Criminal justice system protection measures

28. The Committee welcomes the use of court screens in all provinces and the video link pilot project to record children's testimonies. However, it is concerned that:

(a) The State party does not have a formal programme to provide protection for child victims and witnesses of offences covered under the Optional Protocol and that, as a result, they are not provided with appropriate protection in the justice system;

(b) Child victims of offences under the Optional Protocol are not sufficiently provided with free legal aid and with the support of child psychologists and social workers during the criminal justice process;

(c) Child victims of prostitution and trafficking are sometimes treated as offenders by law enforcement officials, despite article 24 of the Law on Suppression of Human Trafficking and Sexual Exploitation adopted in 2008.

29. **In accordance with article 8, paragraph 1, of the Optional Protocol and the Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime (Economic and Social Council resolution 2005/20, annex), the Committee urges the State party to ensure, through adequate legal provisions and regulations, that all child victims and/or witnesses of crimes under the Optional Protocol are treated in a child-sensitive way by the criminal justice system throughout the investigation and trial process and provided with adequate assistance. In particular, the State party is requested to:**

(a) Establish clear child-sensitive procedures and standards for the provision of such assistance at all stages of the criminal and judicial process;

(b) Ensure that court screens are made available to children and extend the video link project to all provinces in the State party;

(c) Provide child victims with free or subsidized legal aid and with the support of child psychologists and social workers;

(d) Ensure that child victims of offences under the Optional Protocol are not treated as offenders in practice and that law enforcement officials are made aware of the State party's legislation in this regard.

Recovery and reintegration of victims

30. The Committee is concerned that the State party's recovery and reintegration measures are limited to victims of trafficking and do not adequately take into account the needs of child victims of offences covered under the Optional Protocol, especially at the commune level, owing to a lack of resources and insufficient number of adequately trained staff and officials. The Committee also regrets the absence of State-run rehabilitation and reintegration programmes and that social reintegration and assistance are tasks carried out mainly by non-governmental organizations and United Nations agencies, with insufficient involvement and support from the Police and the Ministry of Social Affairs, Veterans and Youth.

31. **The Committee recommends that the State party take all necessary measures to ensure that child victims of the offences under the Optional Protocol are provided with appropriate assistance, including for their physical and psychological recovery and full social reintegration, in particular at the commune level. In this regard, it calls on the State party to take full responsibility for such efforts, by increasing the**

availability of State-run social services and by strengthening the capacity of government agencies to support and coordinate assistance to child victims of offences under the Optional Protocol. The State party should also ensure the participation of children in the development of policies and programmes for their recovery and reintegration.

VIII. International assistance and cooperation (art. 10)

Multilateral, bilateral and regional agreements

32. **In the light of article 10, paragraph 1, of the Optional Protocol, the Committee encourages the State party to continue to strengthen international cooperation through multilateral, regional and bilateral arrangements, especially with neighbouring countries, including by strengthening procedures for and mechanisms to coordinate the implementation of such arrangements, with a view to improving prevention, detection, investigation, prosecution and punishment of those responsible for any of the offences covered under the Optional Protocol.**

International cooperation

33. **In this regard, the Committee also recommends that the State party cooperate with and seek technical assistance from, inter alia, the Office of the United Nations High Commissioner for Human Rights and the United Nations Children's Fund.**

IX. Ratification of the Optional Protocol to the Convention on the Rights of the Child on a communications procedure

34. **The Committee recommends that the State party, in order to further strengthen the fulfilment of children's rights, ratify the Optional Protocol to the Convention on the Rights of the Child on a communications procedure.**

X. Follow-up and dissemination

Follow-up

35. **The Committee recommends that the State party take all appropriate measures to ensure full implementation of the present recommendations, inter alia, by transmitting them to the relevant government ministries, the parliament, the Supreme Court and to national and local authorities, for appropriate consideration and further action.**

Dissemination of concluding observations

36. **The Committee recommends that the initial report and written replies submitted by the State party and related recommendations (concluding observations) adopted be made widely available, including (but not exclusively) through the Internet, to the public at large, civil society organizations, youth groups, professional groups and children, in order to generate debate and awareness of the Optional Protocol, its implementation and monitoring.**

XI. Next report

37. **In accordance with article 12, paragraph 2, of the Optional Protocol, the Committee requests the State party to include further information on the implementation of the Optional Protocol in its next periodic report under the Convention on the Rights of the Child, in accordance with article 44 of the Convention.**